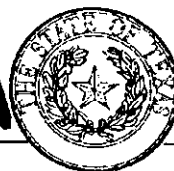


Texas State Library

RQ-834



Robert S. Martin
Director and Librarian

Lorenzo de Zavala State Archives and Library Building
1201 Brazos

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FIRST ASSISTANT ATTORNEY GENERAL
ATTORNEY GENERAL'S OFFICE

July 14, 1995

Dan Morales
Attorney General
Supreme Court Building
Austin, Texas 78711

Opinion Committee

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STS
FILE # ML-34725-95
I.D. # 34725

Dear General Morales:

Opinion Committee

The Texas State Library requests an opinion on the following question:

Does an amendment to Texas Government Code §441.135(a) apply to any grant not specified in §441.135(b)?

During the 74th Legislature, H.B. 2540 amended both §441.135(a) and §441.135(b). This bill added the following underlined language to §441.135(a):

(a) The commission shall establish a program of state grants within the limitations of funds appropriated by the legislature. The commission shall adopt by rule the guidelines for awarding grants, except that any municipal library which lends more than 20,000 items per year to non-residents cannot be denied any grant awarded after January 1, 1995, based solely upon the provision of services to non-residents.

The bill also added the following underlined language to §441.135(b):

(b) The program of state grants shall include one or more of the following:

- (1) system operation grants ...;
- (2) incentive grants ...;
- (3) establishment grants ...; and
- (4) equalization grants ...; and
- (5) public information technology grants, to help public libraries make state, local, and federal government information that is accessible through the Internet or electronic bulletin board systems available to the public through computer terminals at a library.

The Commission is considering an appeal from a municipal library that has been denied a federally-funded Major Urban Resource Library grant because of its failure to provide the library services specified in the Commission's grant guidelines (13 TAC 1.21). This library does loan "more than 20,000 items per year to non-residents," although the library is already compensated for most of these loans by other state contracts or by user fees.

The Major Urban Resource Library grant program through which these federal funds are distributed is not one of the five "state grants" specified in §441.135(b). Rather, this Major Urban Resource Library grant program is authorized by §441.009, that gives the Commission the authority to plan and administer federal funding.

In its appeal, the library maintains that the new language in §441.135(a) prohibits the Commission from denying it a grant, even though the grant is not one of those listed in §441.135(b), but rather is a federally-funded grant program, administered by the State Library under §441.009. Therefore, the State Library requests your clarification on whether the phrase "...any grant awarded ..." applies to grants that are not specified in §441.135(b).

We respectfully ask to have your ruling on these questions, if possible, prior to the next meeting of the Commission, on July 31, 1995, when the appeal will be heard.

Please feel free to contact Edward Seidenberg, director of Library Development Division, at 463-5459 if you have any questions or need additional information.

Sincerely,

A handwritten signature in dark ink, appearing to read "Robert S. Martin", followed by a horizontal line.

Robert S. Martin
Director and Librarian

pc: Sandra Coaxum